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Garamendi Digs In

A key reason why healthcare costs so much more per person in the United States than in any other developed country is consolidation in the industry: With just a few hospital chains dominating regions and a few insurers covering most people, employers and patients have less and less clout to drive bargains.

That's why Californians have a lot at stake in what might at first seem an esoteric struggle between California Insurance Commissioner John Garamendi and Indianapolis-based Anthem Inc. Their feud escalated last week when Garamendi turned down the company's deal to acquire Thousand Oaks-based WellPoint, which insures more than 7 million Californians through its Blue Cross of California subsidiary. Any day now, Anthem is expected to take Garamendi to court for his admirable stance as the only regulator to stand in the way of the acquisition.

Litigation is perhaps the worst imaginable way of regulating healthcare. Courts tend to be ham-handed and inefficient, rewarding patients only years after medical harm is done and in ways that don't fix the problems that prompted the suits to begin with. But in this case, it seems to be the only way to force Anthem and WellPoint to fully disclose the deal's terms, which are being detailed in plenty of private stockholder meetings but are still opaque to the public.

Garamendi contends that the merger would result in changes that aren't "fair and reasonable to policyholders," and that Anthem has yet to demonstrate how it would "improve the availability and quality of healthcare." There's no doubt that the deal would lavishly reward Anthem and WellPoint executives, who Garamendi says would receive between \$200 million and \$600 million in compensation packages. Anthem places the figure at up to \$250 million.

Left-leaning healthcare advocates such as the Santa Monica-based Foundation for Taxpayer and Consumer Rights are now pressing Garamendi to overreach. They want him to extract impossible promises from Anthem — an absolute assurance that it wouldn't change policy benefits, for instance, and a guarantee that premiums wouldn't rise above what "inflation warrants." Whatever that means.

By his own admission, Garamendi has neither the time, staff nor expertise to set prices and premiums for every medical treatment. What he does have is the power of the bully pulpit. The longer he manages to drag out legal reviews of the deal, the more he can force Anthem and WellPoint to put relevant documents on the record. That's just where they should be.